

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15592
[Redacted])	
Petitioner.)	DECISION
)	
_____)	

On March 12, 2001, the Tax Discovery Bureau (TDB) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted](taxpayer), proposing income tax, penalty and interest for the years 1994, 1995, 1996, 1997, 1998, and 1999 in the total amount of \$10,341.

On May 14, 2001, a timely protest and petition for redetermination was filed by the taxpayer. The taxpayer requested an informal hearing that was held on December 6, 2001. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision affirming the NOD.

[Redacted] The majority of her income is medical payments realized from her work as a home health care provider (provider) with additional income from stock sales, dividends and a part-time job during the audit period.

The taxpayer in her protest letter stated in pertinent part:

I was under the impression that with my work as an independent care provider through the State of Idaho, that my income was exempt under the Federal guidelines of section 131. If I am mistaken about this I will do whatever is necessary to rectify this.

TDB gave the taxpayer explicit instructions and guidance and a six-week period in which to have all returns prepared and submitted to the Commission. The taxpayer did not comply with TDB's request, so the taxpayer's file was transferred to the Legal/Tax Policy division for further review.

On August 2, 2001, the Tax Policy Specialist (policy specialist) sent the taxpayer a hearing rights letter to inform her of the alternatives for redetermining a protested NOD. The taxpayer had a hearing before the Commission on December 6, 2001.

[Redacted]At the hearing, the taxpayer read a memo the policy specialist had prepared. In the memo, the policy specialist stated that the taxpayer had previously told him that the taxpayer worked at a nursing home where her current client was residing. After working with this individual at the nursing home, they decided that she would take care of him in her own home. An administrator at the nursing home worked out the details with Health & Welfare (H&W) so that the taxpayer could be paid to take care of the individual in the taxpayer's home.

The memo went on to state that the taxpayer received payments from H&W to care for this individual. The taxpayer believed that these payments were not subject to federal or state income tax because they qualified as foster care payments under Section 131 of Internal Revenue Code. She also believed the payments were not subject to federal and state income taxes because income taxes were not withheld from her payments from H&W. When she had worked for H&W going to people's homes as a care provider, H&W had withheld federal and state income taxes. The taxpayer did not understand that H&W was not withholding income taxes from the payments because she was acting as a sole proprietor when she took care of the individual in her own home.

The taxpayer confirmed that the information in the memo shown above was correct.

At the hearing the taxpayer stated that she was going to complete [Redacted] state income tax returns for the years 1994 through 1999.

In May 2002, the taxpayer signed a waiver of the 180-day requirement to allow more time to provide additional information.

On November 22, 2002, the policy specialist sent the taxpayer a letter granting the taxpayer an additional 60 days to file the necessary returns.

To date, the taxpayer has not provided any returns for the years in question.

Internal Revenue Code 131 stated in pertinent part:[Redacted]The taxpayer stated that the payments she received from H&W to care for the individual in her home included both foster care payments and difficulty of care payments. It is clear for both types of payments to be excluded from gross income that the individual being cared for must meet the definition of a “qualified foster individual.”

It was learned from the Idaho Department of Health and Welfare (H&W) that adults in Idaho who wish to receive care in a provider’s home are not placed in a specific home but are instead given a list of available providers to choose from.

In this case, the individual or his family agreed that the taxpayer would care for the individual in the taxpayer’s home. H&W was contacted by the nursing home administrator to see if taxpayer could be paid for her services. Based on the information presented by the taxpayer, it does not appear that the individual was “placed by” H&W in the taxpayer’s home.

[Redacted] the court denied the exemption [Redacted] to a care provider in [Redacted] because a nonprofit organization had placed the individual in the provider’s home. The court made its decision based on the two words “placed by.” The court found the payments received by the provider were not qualified foster care payments and were includable in gross income in each of the years at issue in that case.

Idaho Code § 63-3002 states:

It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that taxable income

reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; . . .

Since the taxpayer has not provided the Commission with a contrary result [Redacted]for the years 1994, 1995, and 1996 and income information for the years 1997, 1998, and 1999, nor actual returns for any of these years, the Commission must uphold the deficiency as asserted.

WHEREFORE, the Notice of Deficiency Determination dated March 12, 2001, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that taxpayer pay the following tax, penalty, and interest for the years:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1994	\$ 940	\$235	\$604	\$ 1,779
1995	713	178	397	1,288
1996	820	205	388	1,413
1997	769	192	296	1,257
1998	1,261	315	388	1,964
1999	2,464	616	579	<u>3,659</u>
			TOTAL	<u><u>\$11,360</u></u>

Interest is calculated through July 22, 2003.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2003, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
